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First name: Keith

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Organization: Swan View Coalition

Title: Chair

Comments: DECISION OBJECTED TO:

Frozen Moose Project Draft Decision Notice and Finding of No Significant Impact

(hereafter FMP, Project, DDN and FONSI)

Kurtis Steele, Flathead Forest Supervisor, October 15, 2020.

Objector:

Keith J. Hammer

Chair

Swan View Coalition

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November 24, 2020

Swan View Coalition (SVC) is a non-profit conservation organization dedicated to conserving water quality and quiet, secure habitats for fish, wildlife and people on the Flathead National Forest and greater Flathead River Basin. Our members use these areas, including the Project area, for recreation, employment, wildlife viewing, photography, research, education, aesthetic enjoyment, spiritual rejuvenation, and other activities.

On January 16, 2020, SVC submitted written comments on the Frozen Moose Proposed Action. On August 5, 2020, SVC submitted written comments on the initial Frozen Moose EA, as noted in DDN Appendix B. The Response to Comments fails to adequately address our concerns. Even more importantly, it fails to result in the

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substantive and procedural changes in the Project and analyses necessary to comply with laws, regulations and a reasonable code of ethics. We remain concerned that the FMP and DDN/FONSI will harm water quality, fish, wildlife, and our members's interests.

We attach to this Objection, as Exhibits A and B, our 1/16/20 and 8/5/20 comment letters mentioned above. We ask that they be read in their entirety as an integral part of this Objection as we will not repeat those concerns in full here.

We included with our 1/16/20 letter a DVD of supporting documents, which we will refer to here as PA DVD. We included with this Objection another DVD of supporting documents, which we will refer to as OBJ DVD. References to those supporting documents will generally follow the format [Idquo]DVD Folder XX, filename.[rdquo]

We incorporate by reference the Objections being filed by Friends of the Wild Swan, Brian Peck, and WildEarth Guardians.

Executive Summary

The FMP fails to adequately distinguish between and quantify the risks to grizzly bears, bull trout and other wildlife by decommissioned, abandoned, temporary, open, gated, and barricaded roads. As a result, it draws arbitrary and capricious conclusions to support the building and rebuilding of more roads and culvert crossings in watersheds already suffering from too many roads and culverts. Moreover, the FMP builds and rebuilds those roads in order to support specious logging and other [Idquo]vegetation management[rdquo] that will not protect neighboring private lands and structures from fire, with much of that activity proposed in grizzly bear [Idquo]secure core[rdquo] during the nondenning season when bears are vulnerable to displacement. On the whole, the FMP does not [Idquo]maintain the on-the-ground [2011] conditions that have contributed to the

growth and expansion of the NCDE grizzly bear population,[rdquo] as required by the 2018 Forest Plan (see the 10/31/17 Biological Assessment on the revised Forest Plan, at 127).

This is a violation of the Administrative Procedures Act, the National Environmental Policy Act, the National Forest Management Act, the Endangered Species Act, and the Clean Water Act.

The DDN[rsquo]s Response to Comments

In response to our 6-page 8/5/20 letter, the DDN provides 9 paragraphs. These responses essentially restate the Forest Service[rsquo]s position and fail to provide us any substantive relief.

The response on page 65 of the DDN confirms that:

For activities proposed in grizzly bear secure core, most vegetation management (3,248 of 3,336 acres), most road construction (7.5 of 8 miles), and all aquatic restoration work (5 miles) would occur during the non-denning season. Road management associated with these activities has been incorporated into the

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moving window analysis for during project calculations and is captured in the 10-year running average for temporary changes to access management conditions. The updated environmental assessment clarifies on p. 16 that activities occurring in grizzly bear secure core could occur in the non-denning season.

Allowing these motorized activities in [ldquo]secure core[rdquo] does not [ldquo]maintain the on-the-ground [2011] conditions that have contributed to the growth and expansion of the NCDE grizzly bear population.[rdquo] Those 2011 conditions were governed by Forest Plan Amendment 19, which prohibited all motorized and high-use non-motorized activities in [ldquo]security core[rdquo] during the non-denning season. By design, definition and

implementation, the revised Forest Plan and the FMP do not maintain those 2011

conditions due to the redefinition of OMRD/TMRD/Core and the allowed 5/3/2

deviations from those baseline parameters. Moreover, the EA fails to provide a map of

the grizzly bear subunits by which to determine spatially whether the 5/3/2 deviations

(which were developed using anecdotal evidence and not best available science) are

even being applied correctly according to the 2018 Plan.

The response on page 72 of the DDN essentially confirms our concern that all necessary

culvert work and watershed restoration will not be accomplished by the FMP because it

largely confines such work to areas that overlap the project area and to roads needed to

conduct the logging and other vegetation work. To make matters worse, the culvert

replacements and removals included in the FMP are not guaranteed funding (EA at 24).

The Flathead NF has a long history of promising culvert removals and road

decommissioning and then failing to fund and implement them. The 1996 Crane

Mountain Salvage decision authorized 83.9 miles of road decommissioning, yet 59.8

miles have yet to be decommissioned. The revised Forest Plan and Bug Creek Project

are now renege on that promised decommissioning. Those 59.8 miles are only a part

of the 125 miles of road decommissioning the Flathead has decided and promised

through the NEPA process over the past 30 years but never implemented. (See OBJ

DVD Folder 07, 2020-11-20 Doc. 97-1 Decl _ Keith Hammer.pdf and PA DVD Folder 01,

150323 FNF Decommissioning Spreadsheet.pdf).

The FMP alone will rebuild 13 miles of [ldquo]historic[rdquo] roads and return them to the road

[ldquo]system.[rdquo] These roads will then be managed as [ldquo]impassable,[rdquo] meaning the first 50 feet

of the road must include a physical barrier to discourage wheeled motorized vehicles,

leaving the remainder of the road available for human use as a road and trail. This does

not [ldquo]maintain the on-the-ground [2011] conditions that have contributed to the growth

and expansion of the NCDE grizzly bear population.[rdquo] Those 2011 conditions were

governed by Forest Plan Amendment 19, which required historic/decommissioned/reclaimed roads to have their entire length treated in order to discourage their use as either a road or trail, motorized or non-motorized. This because grizzly bear research shows bears avoid even closed roads with very little human use. (See OBJ DVD Folder 07, 2020-11-20 Doc. 97-1 Decl _ Keith Hammer.pdf and 2020-11-20 Doc. 97 Plaintiffs Joint Combined Reply.pdf).

Rebuilding historic/decommissioned/reclaimed roads and simply storing them as [ldquo]impassable to wheeled motorized vehicles[rdquo] leaves them available for other human

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uses including mountain biking. While numerous studies have shown that mountain biking displaces elk to a greater degree than hiking or horseback riding, (e.g. PA DVD Folder 14, Wisdom et al 2018.pdf) recent research shows that mountain biking displaces moose and grizzly bear to a degree similar to motorized vehicles! (See OBJ DVD Folder 04, Naidoo and Burton 2020.pdf). The revised Forest Plan and the FMP fail to adequately account for the impacts of human uses on grizzly bears, among other wildlife species. They also fail to account for the cumulative impacts of the 7 projects being implemented or planned under the 2018 Plan.

Those 7 projects are rebuilding 26.3 miles of historic roads and returning them to the road system to be managed as [ldquo]impassable[rdquo] to motor vehicles. In addition, they are building 43.5 miles of new permanent system roads, for a total of 69.8 miles. This is more than 20 times the road miles built in the Flathead[rsquo]s grizzly bear habitat from 1996 - 2010 under Amendment 19 (3.2 miles that were largely road re-routes. See OBJ DVD Folder 07, 2020-11-20 Doc. 97-1 Decl _ Keith Hammer.pdf)! This does not [ldquo]maintain the on-the-ground [2011] conditions that have contributed to the growth and expansion of the NCDE grizzly bear population.[rdquo] Those 2011 conditions were governed by Forest

Plan Amendment 19, which primarily drove the decommissioning of 900 miles of roads under the 1986 Forest Plan (2018 Forest Plan DEIS, Vol. 1, at 117).

Those 7 projects being planned and implemented in the first 2 years of the 2018 Forest Plan, propose only 46 miles of road decommissioning - with none of that proposed in the FMP. Almost all of it is proposed as aquatic restoration in the Mid-Swan Project, which notes that funding for that decommissioning is not guaranteed, while reneging on 59.8 miles of road decommissioning never funded and implemented in the Crane Mountain area, as mentioned above. (See OBJ DVD Folder 07, 2020-11-20 Doc. 97-1 Decl _ Keith Hammer.pdf). Moreover, this Mid-Swan road decommissioning, if it gets implemented, is likely to be the bulk of the 30 - 60 miles that might be [ldquo]decommissioned or stored[rdquo] over the 15-year life of the 2018 Plan. (11/22/17 FWS BiOp on the 2018 Forest Plan, at II-49).

Perhaps equally as important, those 7 projects propose to build 68 miles of new mountain bike, horseback and hiking trails, all human uses known to displace grizzly bears and other wildlife. (See OBJ DVD Folder 07, 2020-11-20 Doc. 97 Plaintiffs Joint Combined Reply.pdf; OBJ DVD Folder 04, Naidoo and Burton 2020.pdf; and PA DVD Folder 24, Fortin et al 2016.pdf, Kasworm Manley 1990 roads and trails.pdf, Ladle_et_al-2018-Journal_of_Applied_Ecology.pdf, Mace and Manley 1993.pdf, Mace and Waller 1997.pdf, and Mace and Waller_1997 errata.pdf). While the FMP proposes no new trail construction, it proposes to rebuild historic roads and leave them available as roads and trails for non-motorized use.

Nowhere does the 2018 Forest Plan or the FMP provide an adequate cumulative effects analysis to determine whether the Plan and its various projects are [ldquo]maintain[ing] the on-the-ground [2011] conditions that have contributed to the growth and expansion of the NCDE grizzly bear population,[rdquo] as required by the Forest Plan. We have provided good evidence that they are not maintaining those on-the-ground conditions due to

design, definition and implementation.

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The EA fails to develop and evaluate an alternative that would meet the 19/19/68

[ldquo]research benchmarks[rdquo] for OMRD/TMRD/Core. These are the benchmarks by which

FWS measures the incidental take of grizzly bear in its biological opinions. The public

and decision maker cannot adequately determine the effects to grizzly bears without

having a [ldquo]research benchmark[rdquo] alternative to compare other alternatives to.

Moreover, the [ldquo]research benchmark[rdquo] alternative must use the TMRD and Core

definitions based on that research and used to develop Amendment 19 in order to better

represent the conditions and management regime that reportedly [ldquo]have contributed to

the growth and expansion of the NCDE grizzly bear population.[rdquo] In substituting

[ldquo]impassable[rdquo] roads in place of [ldquo]reclaimed[rdquo] roads in the definition of TMRD, and by

allowing Core to be subject to motorized use and high levels of non-motorized human

use during the non-denning season, the 2018 Plan and the FMP compare apples to

oranges when comparing their new ways of calculating OMRD/TMRD/Core to the

[ldquo]research benchmarks.[rdquo]

In short, by limiting the EA to a single action alternative, the EA unacceptably masks

the effects to grizzly bear and allows two grizzly bear subunits to [ldquo]not meet research

benchmarks at the project completion[rdquo] (EA at 12) as though that has no continuing

negative consequences for bears. What would the project area and its transportation

system look like if the project did meet the 19/19/68 research benchmarks? The EA

provides no answer.

And all of this effort to rebuild and retain its bloated transportation system is so the

Flathead can allegedly [ldquo]reduce tree densities and fuel loadings . . . Improve the

diversity of vegetative communities and associated wildlife habitat [and] Maintain and

improve aquatic ecosystems.” Trying to fix a forest broken by logging and road building by applying more logging and road building is not the answer. Rather than repeat ourselves here, please read in the entirety our comments on the Flathead’s Mid-Swan Project (OBJ DVD Folder 09, SVC et al on Mid-Swan DEIS 201013.pdf).

Indeed, Forest Service research has found:

There have been recent assertions that roads are needed to prevent fire and to keep forests healthy . . . The apparent neutrality of roads with respect to fire occurrence may be due to higher rates of human caused ignition near roads offsetting advantages related to more agile positioning of fire-fighting assets . . . roads are strongly associated with the spread of invasive plant species in national forests . . . Speculation that eliminating road prohibitions would improve forest health is not supported by nearly twenty years of monitoring data.

(See OBJ DVD Folder 04, Healey_2020_Environ._Res._Lett._15_104023 Long-term forest health implications of roadlessness-1.pdf). And yet the FMP EA and DDN argue that more roads, including the rebuilding of previously decommissioned roads, are necessary for forest health and to help control wildfire. The thrust of the FMP is arbitrary, capricious, an abuse of agency discretion, and at odds with the Forest Service’s own research dating back to the 1990s Interior Columbia Basin Ecosystem Management Project and beyond.

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Conclusion

We remain concerned that the FMP will harm grizzly bears, bull trout, lynx, and other unlisted species of fish and wildlife. We remain concerned that this harm will be amplified by other projects being planned and implemented under the 2018 Forest Plan without an adequate assessment of their cumulative effects.

For the reasons given above and in the referenced documents, the DDN and its reliance on the EA is arbitrary, capricious, an abuse of agency discretion, and not in accordance with law - including the APA, NEPA, NFMA, ESA, and CWA.

Relief Sought

1. Declare the FMP EA and DDN inadequate and withdraw them.
2. Prepare an EIS that adequately assesses the cumulative effects of the FMP and other past, current and reasonably foreseeable projects.
3. Insure that the EIS includes an adequate range of alternatives, including an alternative that would meet the 19/19/68 research benchmarks as defined by Amendment 19 in all grizzly bear management subunits.